

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JIM AND) APPEAL NO. 07-A-2514
CHERYL FOCHTMAN from the decision of the) FINAL DECISION
Board of Equalization of Payette County for tax) AND ORDER
year 2007.)

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing January 7, 2008 in Payette, before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Cheryl Fochtman and Attorney Shawna Peterson appeared for Appellants. Attorney Brian Lee and Appraiser W. Darcy Maag appeared for Respondent Payette County. This appeal is taken from a decision of the Payette County Board of Equalization (BOE) modifying the protest of the valuation for taxing purposes of property described as Parcel No. 042000010030.

The issue on appeal is the market value of a residential property.

The decision of the Payette County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$38,500, and the improvements' valuation is \$336,290, totaling \$374,790. Appellants request the land value be left at \$38,500, and the improvements' value be reduced to \$276,885, totaling \$315,385.

The subject property is a 2,697 square foot residence on 1.23 acres, located in Eagle View Estates Subdivision, Fruitland, Idaho.

At hearing Appellants were represented by attorney Shawna Peterson. Attorney Peterson stated that the subject property was disproportionately assessed compared to other residences in the subdivision, and comparable residences in the County.

Attorney Peterson explained the appellants had appealed to the BOE on the basis that subject's assessed value was inequitable. The BOE subsequently lowered subject's total assessed value from \$392,190 to \$374,790. However, five out of the six property owners in subject's subdivision, appealed to the BOE. It was reported "the BOE also lowered the value on the neighboring properties which widened the gap between subject even more". Subject's amended assessment was \$122 per square foot, excluding land value. The amended assessments for neighboring residences averaged \$105 per square foot, excluding land value.

Appellants submitted photographs and a spreadsheet listing the assessed values of surrounding properties. The residential improvements ranged between 3,121 and 6,166 square feet, with lot sizes which ranged from 1.22 to 2.76 acres. The assessed values were between \$103 and \$107 per square foot. Subject is 2,697 square feet on 1.23 acres with an assessed value of \$122 per square foot in comparison. The per square foot figures exclude land value.

Appellants submitted an inspection report to validate subject had significant construction defects when constructed in 2005. These defects have since been remedied. Ms. Peterson suggested the original defects warranted a reduction in assessed values.

Attorney Peterson presented three area property sales. The improvements ranged between 2,400 and 3,500 square feet, with lot sizes which ranged between 1.25 and 2.31 acres. The sale prices ranged between \$339,000 and \$487,000, or \$120 to \$125 per square foot. Subject was assessed at \$122 per square foot. The per square foot figures excluded land value.

For the County, Appraiser Maag testified regarding his experience as an appraiser. Mr.

Maag also stated that subject's value was determined by comparable sales similar in size, age and location. The original computed value was \$134 per square foot. Mr. Maag stated that "after sales were re-analyzed and tightened down, subject was reassessed at \$122 per square foot". The market approach was utilized, and Appraiser Maag stated that \$122 per square foot is consistent with sales in subject's area. No sales were furnished by the County. The appraiser was not aware of subject's defects. Mr. Maag stated the defects issue would need to be examined to determine if it affected subject's value.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The Assessor is statutorily required to assess property at market value. In assessing property for tax purposes, Idaho subscribes to the market value standard as defined in Idaho Code § 63-201(10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

In determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. *Merris v. Ada County*, 100 Idaho 59 (1979).

The County Appraiser testified to the method of valuation utilized to value subject and

contended that subject's assessed value is reasonable and consistent with sales in the area.

Appellants argued subject was over-valued in comparison to neighboring properties and comparable sales. The subject improvements, less paving, were assessed at \$330,650. The improvements of neighboring properties were assessed at \$326,470, \$346,850, \$362,910, \$396,649, and \$641,260. Given subject improvements are smaller in square footage, a greater value per unit (square feet) would be expected.

The sales presented by Appellants averaged \$124 per square foot. Subject is assessed at \$122 per square foot. The per square foot value for subject's improvements is supported by Appellant's 2006 sales information.

Market value is largely a factual issue. *Merris*. The State Constitution places an assumption of correctness on the tax assessment which must be overcome by a preponderance of the evidence. Idaho Code § 63-511(4). "A 'preponderance of evidence' is evidence that, when weighed with that opposed to it, has more convincing force and from which results a greater probability of truth." *Harris v. Electrical Wholesale*, 141 Idaho 1, 3; 105 P.3d 267, 269 (2004).

Considering the evidence provided in this matter, the Board finds Appellants' three sales and the Appraiser Maag's testimony to be the most credible evidence. The Appraiser's testimony supports the claim that the assessment was fair and reasonable. The decision of the Payette County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Payette County Board of Equalization concerning the subject parcel be, and the same

hereby is, affirmed.

MAILED FEBRUARY 12, 2008